

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STATE OF OHIO, ex rel.	:	CASE NO.: 2:11-cv-508
DAVE YOST ¹	:	(consolidated with 2:08-cv-709)
OHIO ATTORNEY GENERAL	:	
	:	Judge MICHAEL H. WATSON
Plaintiff,	:	
v.	:	
	:	
OTTERBEIN UNIVERSITY,	:	
	:	
and	:	
	:	
UNITED STATES OF AMERICA	:	
UNITED STATES DEPARTMENT OF	:	
DEFENSE, and LLOYD J. AUSTIN III ²	:	
in his capacity as SECRETARY OF THE	:	
DEPARTMENT OF DEFENSE,	:	
	:	
Defendants.	:	

Notice of Lodging of Proposed Consent Decree

Plaintiff, the State of Ohio, and Defendants, Otterbein University and the United States, have entered into a proposed Consent Decree, which would resolve the State's claims for violations of Ohio's hazardous waste, water pollution, and nuisance laws, and the State's claims for response costs under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") in this case. A copy of that proposed Consent Decree is attached to this Notice.

Before the Parties can ask the Court to approve this Consent Decree, 40 C.F.R.

123.27(d)(2)(ii) requires the Ohio Environmental Protection Agency to allow 30 days for a

¹ Dave Yost is now the Ohio Attorney General and is substituted pursuant to Fed. R. Civ. P. 25(d) for the former Ohio Attorney General.

² Lloyd J. Austin III is now the Secretary of the Department of Defense and is substituted pursuant to Fed. R. Civ. P. 25(d) for the former Secretary.

public notice and comment period regarding the proposed Consent Decree. The provisions of the proposed Consent Decree expressly provide that the State and the Defendants are not bound by it if public comments received during this thirty (30) day period require a change in the terms and conditions of the Consent Decree. Because this public comment process must now proceed, the proposed Consent Decree has now only been lodged with the Court; the State and Defendants are **not** requesting that the Court enter this Consent Decree at this time.

Following the lodging of the proposed Consent Decree, Ohio EPA will publish notice of the Consent Decree to commence the 30-day comment period. The parties will be contacting the Court following the expiration of the public notice period to confirm whether this proposed Consent Decree is going to be the final version that the State and the Defendants will request that the Court enter. We expect any request to the Court for the entry of a Consent Decree will take the form of a motion for entry. Only after the Court receives this motion would we request that the Court review and consider whether the Consent Decree should be entered.

Respectfully submitted,

DAVE YOST
OHIO ATTORNEY GENERAL

/s/ Ian F. Gaunt
IAN F. GAUNT (0097461)
Trial Attorney
MARK J. NAVARRE (0013674)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street
Columbus, Ohio 43215
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
Ian.Gaunt@OhioAGO.gov
Mark.Navarre@OhioAGO.gov

Attorneys for the State of Ohio

CERTIFICATE OF SERVICE

This certifies that on October 3, 2023, I filed the foregoing Notice of Lodging of Proposed Consent Decree through the Court's electronic filing system, which notified:

Dallas F. Kratzer III
Steptoe & Johnson PLLC
41 South High Street
Suite 2200
Columbus, OH 43215
614-458-9827
Email: dallas.kratzer@steptoe-johnson.com

Attorney for Otterbein University

and

Perry M. Rosen
United States Department of Justice
Environment and Natural Resources Division
Environmental Defense Section
P.O. Box 7611
Washington, DC 20044
Tel: (202) 616-2627
Email: perry.rosen@usdoj.gov

Attorney for the United States